

DETAILED ACTION

1. This communication is a first Office Action Non-Final rejection on the merits.

Claims 1-17 and 31 are currently pending and have been considered below.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 8 recites "The method according to claim 1 wherein public producers and contestants are listed in the credits of said entertainment product." This is a simple recitation of data in a highly obvious location. This does not limit the claimed invention.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1-17 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinney (Pub. #2003/0014277) in view of Wolf (Pub. #2003/0055779).**

As per claim 1, Kinney discloses a method of producing an entertainment product including the steps of: designating a predetermined number of elements, associated with said entertainment product, that are open for application (paragraph 30; discloses a method wherein the user predetermines "which elements of the project or product will be up for election");

producing the entertainment product in accordance with the winners (paragraph 48; discloses a method where the project and product winners are distributed "carrying a seal of approval verifying that the entertainment project and product was in fact produced" with method approval).

Kinney further discloses the concept of votes [construed as "producers], consumers [construed as "contestants,"] and "winners" (paragraphs 33, 42, and 48). Kinney does not disclose: registering a plurality of public producers upon receiving public producer applications that are open to the public; registering a plurality of contestants for each said element upon receiving contestant applications that are open to the public; registering public producer input regarding contestants; determining at least one winner for each said element based at least partially on said public producer input.

Wolf teaches a method of collaborative funding of new products, including entertainment-related products, including:

registering a plurality of public producers (construed as customer 20 participant; see figure 5) upon receiving public producer applications that are open to the public (paragraph 216; teaching a method able to "accommodate a plurality of" customers, where customers function as producers, to "create an output," where output functions as applications. As per paragraph 126, the output is provided to "the public" in the form of all participants who may register to view the output);

registering a plurality of contestants (construed as flowchart 10) for each said element upon receiving contestant applications that are open to the public (paragraph 126; teaching a "Participant Registration Process" whereby provider contestants register for elements of the proposed project);

registering public producer input regarding contestants (paragraph 155; teaching a "specification phase" that includes specification from customers, where customers in the prior art function as producers in the present application);

determining at least one winner for each said element based at least partially on said public producer input (paragraph 107; teaching a "Wish-Vote" method wherein customers, who function as public producers in the present application, vote for certain proposed projects).

From this teaching of Wolf, it would have been obvious to one having ordinary skill in the art at the time of invention to combine the entertainment production method of Kinney with the registration processes of Wolf, in order to expedite registration of participants.

As per claim 2, Kinney further discloses where said entertainment product is a film (paragraph 69; teaching a method wherein "said entertainment comprises filmed entertainment").

As per claim 3, Kinney further discloses where said entertainment product is music (claim 2 discloses where the entertainment is "recorded music");

As per claim 4, Kinney further teaches a method described in claim wherein said entertainment product is a musical (claim 3 discloses "said entertainment comprising filmed entertainment" and wherein "said entertainment comprises recorded music and video").

As per claim 5, the combination of Kinney and Wolf, as modified for claim 1, is silent regarding the entertainment product being a game.

The examiner takes Official Notice that it is old and well-known in the entertainment art that entertainment products include games. It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the combination of Kinney and Wolf, as modified for claim 1, to create games as taught by Examiners Official Notice, in order to create interactive and competitive entertainment products.

As per claim 6, Kinney further teaches a method described in claim wherein said entertainment product is play (claim 6 discloses a method where "said entertainment comprises live theater").

As per claim 7, Kinney further discloses a method where said entertainment product is "multi-media" (the definition of multi-media is construed to include "several

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media" as claim 3 discloses a method where "said entertainment comprises music and video"; Examiner construes this to be multi-media.

As per claim 8, the combination of Kinney and Wolf, as modified above for claim 1, is silent regarding a method where public producers and contestants are listed in the credits of said entertainment product.

The examiner takes Official Notice that it is old and well-known in the entertainment art that movie credits include all persons who made any contribution to the development of the movie. It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify Kinney and Wolf to include the public producers and contestants in the movie credits, in order to give credit where credit is due and to comply with the traditions of the movie industry.

As per claim 9, the combination of Kinney and Wolf, as modified for claim 1, discloses the claimed method but does not teach a method wherein registering each public producer requires the receipt of a fee from said public producer.

Wolf teaches a method for collaborative funding of projects including a method wherein registering each public producer [construed as a customer participant] requires the receipt of a fee from said public producer (paragraph 228; teaching a method including a system of gathering fees from students in an course to cover costs of the program, where a student functions as a producer in the present application).

From this teaching of Wolf, it would have been obvious to one having ordinary skill in the art at the time of the invention to combine the method for developing entertainment projects of Kinney and Wolf as modified for claim 1 with the requirement

for receipt of a fee from producers as further taught by Wolf, in order to cover costs of the program.

As per claim 10, Kinney further teaches a method wherein registering each contestant requires the receipt of a fee from said contestant (paragraph 33; teaching a method wherein contestants are required to purchase the unique registration code as bundled with other products).

As per claim 11, Kinney further teaches a method as described in claim 1 wherein the public producer input is votes (paragraph 42; (teaching a “web-based election” wherein “registered qualified voters” who function as producers in the present application submit votes for particular elements of a production)).

As per claim 12, Kinney teaches a method described in claim 1 but does not teach a method wherein the public producer input is ratings.

Wolf teaches a method wherein the public producer input is ratings (paragraph 107; teaching a “Wish-Vote” method that allows a “Wish” to receive relative ratings via multiple votes associated with the same customer, where the customer has the equivalent function as the producer in the present application).

From this teaching of Wolf, it would have been obvious to one having ordinary skill in the art at the time of the invention to combine the method for developing entertainment projects of Kinney with the ratings system as taught by Wolf, in order to obtain reliable data regarding product demand.

As per claim 13, Kinney teaches a method described in claim 1 but does not teach a method wherein the public producer comprises both ratings and votes.

Wolf teaches a method wherein the public producer input comprises ratings and votes (paragraph 107; teaches a "Wish-Vote" that allows a "Wish" to receive relative ratings via multiple votes associated with the same customer, construed by the examiner to include ratings & votes, where the customer is construed to be a producer.)

From this teaching of Wolf, it would have been obvious to one having ordinary skill in the art at the time of the invention to combine the method for developing entertainment projects of Kinney with the ratings and voting system as taught by Wolf, in order to obtain reliable data regarding product demand.

As per claim 14, the combination of Kinney and Wolf disclose the method as described above, but fails to disclose a method wherein the ratings determine a shortlist of contestants for at least one category and votes based on said shortlist determine at least one winner.

Wolf teaches a method wherein the ratings determine a shortlist of contestants for at least one category and votes based on said shortlist determine at least one winner (paragraphs 107 and 209-210; teaching a system wherein participants may use a plurality of votes to rate "wishes," which are then given votes to determine the winner).

From this teaching of Wolf, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combination of Kinney and Wolf to include the ratings shortlist method, in order to effectively narrow down potential winners.

As per claim 15, Kinney discloses the method wherein there is an additional step comprising selling or auctioning items used for said producing of said

entertainment product (paragraphs 48-49; discloses a system for attaching a "seal of approval" to the produced project or product)

As per claim 16, Kinney and Wolf, as modified for claim 1, discloses the method described in claim 1 but does not disclose a method wherein said producing of an entertainment product further comprises placing people, product or proper names within the entertainment upon receiving a fee.

Wolf teaches a method wherein producing of an entertainment product includes placing people within the entertainment upon receiving a fee (paragraph 228; teaching a method including a system of requiring fees from students in an course, to include courses taken for entertainment, before the student is allowed to be placed in the course).

From this teaching of Wolf, it would have been obvious to one having ordinary skill in the art at the time of the invention to combine the method for developing entertainment projects of Kinney and Wolf, as modified for claim 1, with the requirement for receipt of a fee persons wishing to be included in an entertainment product, as taught by Wolf, in order to increase cash flow.

As per claim 17, Kinney discloses a method of producing an entertainment product including the steps of: designating a predetermined number of elements, associated with said entertainment product, that are open for application (paragraph 30; discloses a method wherein the user predetermines "which elements of the project or product will be up for election").

Kinney further discloses the concept of votes [construed as “producers], consumers [construed as “contestants,”] and “winners” (paragraphs 33, 42, and 48). Kinney does not disclose: registering a plurality of public producers upon receiving public producer applications that are open to the public; registering a plurality of contestants for each said element upon receiving contestant applications that are open to the public; registering public producer input regarding contestants; determining at least one winner for each said element based at least partially on said public producer input.

Wolf teaches a method of collaborative funding of new products, including entertainment-related products, including:

registering a plurality of public producers (construed as customer 20 participant; see figure 5) upon receiving public producer applications that are open to the public (paragraph 216; teaching a method able to “accommodate a plurality of” customers, where customers function as producers, to “create an output,” where output functions as applications. As per paragraph 126, the output is provided to “the public” in the form of all participants who may register to view the output);

registering a plurality of contestants (construed as flowchart 10) for each said element upon receiving contestant applications that are open to the public (paragraph 126; teaching a “Participant Registration Process” whereby provider contestants register for elements of the proposed project);

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registering public producer input regarding contestants (paragraph 155; teaching a “specification phase” that includes specification from customers, where customers in the prior art function as producers in the present application);

determining at least one winner for each said element based at least partially on said public producer input (paragraph 107; teaching a “Wish-Vote” method wherein customers, who function as public producers in the present application, vote for certain proposed projects).

From this teaching of Wolf, it would have been obvious to one having ordinary skill in the art at the time of invention to combine the entertainment production method of Kinney with the registration processes of Wolf, in order to expedite registration of participants.

As per claim 31, Kinney discloses a computer program product, comprising a memory having computer-readable code embodied therein for determining the identity of elements to be used in producing an entertainment product comprising:

code means for designating a predetermined number of elements, associated with said entertainment product, that are open for application (paragraph 30; disclosing a code means wherein the user designates “which elements of the project or product will be up for election”);

Kinney does not disclose: registering a plurality of public producers upon receiving public producer applications that are open to the public; registering a plurality of contestants for each said element upon receiving contestant applications that are open to the public; registering public producer input regarding contestants; determining

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at least one winner for each said element based at least partially on said public producer input wherein each said winner of a said element represents the identity of said element.

Wolf teaches a method of collaborative funding of new products, including entertainment-related products, including:

code means for registering a plurality of contestants (construed as flowchart 10) for each said element upon receiving contestant applications that are open to the public (paragraph 126; teaching a "Participant Registration Process" whereby provider contestants register for elements of the proposed project);

code means for registering public producer input regarding contestants (paragraph 155; teaching a "specification phase" that includes specification from customers, where customers in the prior art function as producers in the present application);

code means for determining at least one winner for each said element based at least partially on said public producer input (paragraph 107; teaching a "Wish-Vote" method wherein customers, who function as public producers in the present application, vote for certain proposed projects).

From this teaching of Wolf, it would have been obvious to one having ordinary skill in the art at the time of invention to combine the entertainment production method of Kinney with the registration processes of Wolf, in order to expedite registration of participants.

CONCLUSION

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Blumber (US #6,240,415) discloses a computer-based corporate and entertainment interactive management system.

Cruz (Pub. #2002/0123924) discloses a method of gathering local demand data for entertainment purposes.

Pestoni (Pub. #2003/0037144) discloses a collaborative content programming system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abraham J. Granderson whose telephone number is 571-270-5098. The examiner can normally be reached on Monday through Thursday, 7:30 to 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynda Jasmin can be reached on 571-270-3033. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Elaine Gort/
Primary Examiner, Art Unit 3627

AJG